(S)

19/11/07

(33)

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No.6576/2007

PETITIONER Devendra Kumar Verma s/o Shri C.P.Verma, aged about 40 years R/o Pendra Tah. Gaurela(Pendra Road), District Bilaspur(CG)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through Secretary, Agriculture(Fisheries) Department, DKS Bhawan, Raipur(CG)
2. Director, Fisheries Department, Govt. of Chhattisgarh, Raipur(CG)
3. Shri Rajendra Prasad Pandey s/o not known, Assistant Directore, Fisheries Department Rajnandgaon District Durg.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri M.K.Sinha, Counsel for the petitioner.

Shri Satish Gupta, Dy. Govt. Advocate, for the State on advance copy.

ORAL ORDER
(15.11.2007)

SUNIL KUMAR SINHA, J.

Heard.

The petitioner, who is working on the post of Fisheries Inspector, has been transferred from Marwahi (Bilaspur) to the office of Assistant Director (Fisheries), Dantewada on administrative grounds.

Learned counsel for the petitioner argues that this order has been affected to accommodate respondent No.3, who was earlier transferred from Rajnandgaon to Jagdalpur and amending that order, he has now been transferred to the place of the petitioner. He submits that this amounts to malalfide on the part of the Government. He secondly argues that the petitioner has been recently operated in Apollo Hospital, Bilaspur for excision of the

gall bladder; therefore, it would not be good for his health, if he is sent to Dantewada from Bilaspur.

So far as the first ground regarding malafide is concerned, merely on the ground that the earlier order of respondent No.3 has been amended and he is being brought to the place of the petitioner, it cannot be said that the transfer of the petitioner is malafide because it was done to adjust respondent No.3. Malafide cannot be gathered on the vague allegations like the present one. The specific allegations for it have to be made in the petition and that should be supported by reasonable prima facie evidence.

So far as the health ground is concerned, this is not a ground for a Court of law to interfere with the order of transfer of an employee, who is holding a transferable post.

On being pointedly asked from learned counsel for the petitioner that since when the petitioner is posted at Marwahi, Bilaspur, he submits that the petitioner is posted there since the year 2005.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafides or extraneous consideration or is against any statutory Rule or Act, the same cannot be interfered with by a Court of Law

Learned counsel for the petitioner could not point out any such ground of malafide or of extraneous consideration or that the order has been passed against any statutory rule or the Act.

In the facts and circumstances of the case, I do not find any reason to interfere with the order of transfer of the petitioner. The petition is not worth admission. The same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

Sunita